

Claiming Damages for Workplace Stress

By Edward Myers*

Introduction

British workers are reported as having the highest levels of stress in Europe; indeed 1 in 5 workers (around 5 million people) is affected by stress.¹ The cost to Britain's economy is broadly estimated at approximately 6.7 million working days lost each year – valued at between £3.7–£3.8 billion.² As recently as 14th October 2002 the TUC launched a campaign “Tackle the Hassle” designed to focus on the 270,000 people per year who go sick, and the cost to British Companies of around £538 per employee.

Along with these startling statistics has come an increased understanding of the nature and extent of occupational stress. The Health Education Authority in their report “Stress in the Public Sector” (1988) helpfully defines stress as an “excess of demand upon an individual in excess of their ability to cope”. Similarly, the Health and Safety Commission report, “Managing occupational stress; a guide for managers and teachers in the schools sector” (1990), identified stress as “...an unresolved mismatch between the perceived pressures of the work situation and an individual's ability to cope”. (The report concluded unremarkably, although interestingly in the light of subsequent case law, that teaching could be a stressful profession...).

More recently the Health and Safety Executive in their publication “Stress at Work” (1995) adopted a more illuminating approach. Referring to stress as “...the reaction people have to excessive pressures or other types of demands placed upon them”, they distinguish stress from both pressure, and the psychiatric consequences of this. Pressure at work can in some cases cause stress – i.e. an individual response to pressure. The HSE report continues

“Stress is not therefore the same as ill health. But in some cases particularly where pressures are intense and continue for some time, the effect of stress can be more sustained and far more damaging, leading to longer term psychological problems...”.

As any student of this area of law will know, damages are only recoverable for a recognised psychological condition; stress may be the midwife of such a condition³ but does not of itself sound in damages.

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1 Health & Safety Executive Press Release E206: 00 – 1st November 2000

2 *ibid*

3 *Hinz v Berry* [1970] 2 QB 40; *McLaughlin v O'Brian* [1983] 1AC 410; *Alcock v Chief Constable of South Yorkshire Police* [1992] 1AC 310;

The TUC (Trade Union Congress) recognised the European Week for Health and Safety 2002 by prescribing a TUC stress MOT for use by employees. They have indicated that workplace stress claims have increased by a factor of 12 in the period 1999 to 2000.⁴ The Health and Safety Executive have developed some criteria for the identification and reduction of workplace stress. Reasonable employers should be aware of this research and should take into account in taking measures pursuant to risk assessments.⁵ Further, the Working Time Directive 93/104/EC should in the future assist workers injured through stress from long hours of work. Against this background what right of action does an employee suffering from occupationally related stress have?

In order to fully understand the current legal situation and the position of employees considering bringing an action for occupationally related stress, it is necessary to consider the two seminal cases. The first reported decision was *Walker v Northumberland County Council*.⁶ Whilst this set a marker for cases of this nature there was some uncertainty as to the scope of the decision and its implication for future claims. Thereafter, in *Hatton v Sutherland* (and three other cases heard at the same time)⁷ the Court of Appeal, in the first reported decision of that Court which dealt with this issue, helpfully clarified the law post-*Walker*. As will be made clear below, although some practitioners interpreted this decision as a change in the law, or a raising of the bar for potential Claimants, in reality it was a consolidation of the common-law position as set out in *Walker*.

Walker v Northumberland County Council

Whilst claims for occupational stress have long been recognised by other common law jurisdictions, especially USA and Australia, it was not until *Walker v Northumberland County Council* that a marker was first put down in this jurisdiction. The Claimant was an experienced Area Social Services Officer with responsibility for the management of four teams of Social Services field workers in an area with a large number of childcare problems. In the 1980s an increase in population brought a significant increase in the number of cases referred to him. He repeatedly sought assistance from management in the form of extra staff or guidance on work distribution; however neither was forthcoming. In November 1986 he suffered a mental breakdown and under medical advice remained off work until March 1987. On his return to work it was agreed that an assistant would be made available. However this agreement was not adhered to. Consequently the Claimant was exposed to a rapidly increasing workload, and the responsibility for dealing with a substantial backlog of paperwork. In September 1987, some six months after returning to work, he suffered a second nervous breakdown. In February 1988 he was dismissed by his employers on the grounds of ill health.

He claimed damages against his former employer for breach of their duty of care as his employer, in failing to take reasonable steps to avoid exposing him to a health endangering workload. He contended that his immediate superiors knew that social work was particularly stressful, that such stress could give rise to mental illness, and his workload was such as to impose increasing stress on him, and that his employers ought reasonably to have foreseen that unless they took steps to alleviate the impact of that workload, there was a real risk of him becoming mentally ill.

Colman J, hearing the case at first instance, found for the Claimant. In giving judgment he

4 TUC Briefing Document Issue 25th September 2002.

No. 61/1993.

5 See HSE Stress Research and Stress Management; Putting Theory to Work, HSE Contract Research Report

6 [1995] 1AER 737

7 [2002] EWCA Civ 76

acknowledged that although the first breakdown was caused by his employers' failure to provide adequate resources, it was **not** reasonably foreseeable at that time that the workload to which he was exposed gave rise to a material risk of mental illness. However so far as the second breakdown was concerned, the Court found that it **was** foreseeable that if the Claimant was exposed to the same or a similar workload, there was a risk of him once more becoming mentally ill. He concluded :-

“The standard of care to be expected of a reasonable local authority required that in March 1987, such additional assistance should be provided... and the workload on Mr Walker thereby permanently reduced... notwithstanding that it could be expected to have some disruptive effect on the Council's provision of services to the public. It chose to continue to employ him but provided no effective help. In so doing, it was in my judgement acting unreasonably and therefore in breach of its duty of care”.

In reaching their decision, the Court in *Walker* felt it necessary to review the fundamentals of the law on negligence – especially in so far as it related to psychiatric injury.

The elements of negligence

Although the precise scenario had not previously received judicial consideration, it is clear from the judgment of Colman J that the approach to be adopted in determining negligence is not new. It is the “ordinary principles of employers' liability” which are to be applied (per Lord Steyn in *Frost v Chief Constable of South Yorkshire*⁸). These are of course proof of the existence of a duty of care, breach of such duty, and damage suffered as a result. In order to succeed, the successful Claimant will have to show foreseeability of what might happen if care is not taken. This foreseeability requirement whether construed as a component of the existence of a duty, or of its breach, has been most succinctly set out by Simon Brown LJ in *Garrett v London Borough of Camden*.⁹ In considering the huge variety of causes of psychological illness he (Simon Brown LJ) concludes:-

“Many suffer breakdowns and depressive illnesses and a significant proportion could doubtless ascribe some of their problems to the strains and stresses of their work situation. Unless however there was a real risk of breakdown which the Claimant's employers ought reasonably to have foreseen and which they ought properly to have averted, there can be no liability”.

It is readily recognised that because of the very nature of psychiatric disorder it is bound to be harder to foresee than physical injury. The approach to reasonable foreseeability of the risk of work engendered psychiatric injury is helpfully illustrated by the judgment of Miles CJ in *Gillespie v Commonwealth of Australia*.¹⁰ That case involved a claim by a former Australian diplomat against the Australian Foreign Affairs and Trade Department in respect of a mental breakdown which he suffered in consequence of stresses created by the living conditions in Caracas, Venezuela where he had been posted. The Claimant contended that such stress and therefore his injury would have

8 [1999] 2 AC 455

10 [1991] ACTR 1

9 [2001] EWCA Civ 395

been avoided or reduced if the Defendants had before sending him to Caracas, prepared him (by a course of training) for the severely stressful conditions likely to be encountered. Miles CJ observed at page 15:-

“In the present case it is not necessary to consider foreseeability with respect to the existence of a duty of care, because the relationship of employer and employee itself gives rise to that duty of care. Foreseeability for the present purposes is to be considered only in so far as the degree of remoteness of the harm sustained by the Plaintiff set the parameters of the steps that a reasonable person in the position of the Defendant would have taken to reduce the risk to the extent that any “unnecessary” risk was eliminated. In practical terms this means that the Plaintiff must show that the Defendant unreasonably failed to take such steps as would reduce the risk to what was a reasonable, that is a socially acceptable, level. It may be that this takes the Court into an area of value judgement for which the inscrutability of a jury verdict may provide a more appropriate means of expression.”

In *Walker* once the first breakdown had alerted the Defendants to the problem, it was much easier for the Claimant to persuade the court that, at least from that point, it was foreseeable that exposure to similar stresses would cause a similar psychological injury. As Colman J put it:-

“...the question is whether it ought to have been foreseen that Mr Walker was exposed to a risk of mental illness materially higher than that which would ordinarily affect a social services middle manager in the position with a really heavy workload.”

The extent to which a reasonable employer should foresee a harmful reaction to workplace pressures depends on the interplay between a number of relevant factors. These of course include the nature and extent of the work being done by the employee, and any manifest signs from the employee himself. So far as the nature and extent of the work being done by the employee is concerned a court is more likely to consider an adverse psychological reaction to be foreseeable if others have already suffered injury to their health arising from such work. (See in particular the observation of Hale LJ in *Sutherland v Hatton*¹¹ from para 23). Abnormal levels of sickness and absence amongst others would be relevant evidence.

Probably more important are the signs from the employee himself. It is not sufficient for a Claimant to show that it was reasonably foreseeable that the working environment would lead to stress. He must go beyond this – and show that it was reasonably foreseeable that the working environment would lead to damage to his health. This will clearly depend on the circumstances. In *Walker* the court found that although the Claimant complained about his workload prior to his first breakdown, this was not sufficient to render it foreseeable that he would develop a psychological illness. Clearly medical evidence in the form of a GP's sick notes or letters would place the employer on notice. Similarly uncharacteristically prolonged absences from work would place the employer on notice. However the employer must have good reason to think that the underlying cause is occupational stress rather than other factors.

Having established foreseeability, the successful Claimant will also have to show a breach of the duty to take reasonable care. Once again, when assessing whether a breach has taken place, the Court will consider in addition to the foreseeability of harm, the magnitude of the risk of that

¹¹ See footnote 7 *supra*

harm occurring, the gravity of the harm which may take place, the cost and practicability of preventing it, and the justifications for running the risk.¹² This duty was most succinctly encapsulated by Swanwick J in *Stokes v Guest Keane Nettleford (Nuts & Bolts) Ltd*.¹³ Although dealing with an action for damages for scrotal cancer caused by mineral soaked clothing, the dictum applies equally to cases involving psychological injury. He maintained:-

“the overall test is still the conduct of a reasonable and prudent employer, taking positive thought for the safety of his workers in the light of what he knows or ought to know; where there is a recognised and general practice which has been followed for a substantial period in similar circumstances without mishap, he is entitled to follow it, unless in the light of commonsense or newer knowledge it is clearly bad; but where there is developing knowledge, he must keep reasonably abreast of it and not be too slow to apply it; and where he has in fact greater than average knowledge of the risks he may be therefore obliged to take more than the average or standard precaution. He must weigh up the risk in terms of the likelihood of injury occurring and the potential consequences if it does; and he must balance against this the probable effectiveness of the precautions that can be taken to meet it and the expense and inconvenience they involve. If he is found to have fallen below the standard to be properly expected of a reasonable and prudent employer in these respects, he is negligent.”

Although it may be tempting, having determined that harm was foreseeable and such harm had taken place, to conclude that the employer was in breach of his duty, this is not the case. It is always necessary to consider what the employer not only could but should have done. Moreover the employer can only be reasonably expected to take steps which are likely to do some good. This yet again involves notions of reasonableness and the Court will take into account the size and scope of the employer’s operation – and the interests of other employees in the workplace.¹⁴

Lastly the Claimant will have to establish causation – in other words that the particular breach of duty caused the harm. Whereas in many cases this may be straight forward, this will be a matter of expert medical evidence. Any Claimant who brings such a claim must expect his past medical history to be scrutinised in detail so as to determine the extent to which any psychological ill health preceded his absence from work, or was linked to non-work related stressors. Whilst the Defendant must take the Claimant as he finds him (the “egg shell skull rule”)¹⁵, a Defendant will successfully defeat a claim for damages for psychological illness if he can show that the same would have happened irrespective of the Defendant’s negligence.

There has been little judicial authority on the extent to which an employer owes to his employees a duty not to cause them psychiatric damage by the volume or character of the work which the employees are required to perform. Whereas it is clear law that an employer has a duty to provide his employee with a reasonably safe system of work and to take reasonable steps to protect him from risks which are reasonably foreseeable such law has developed almost exclusively in cases

12 See Dicta of Lord Reid in *Overseas Tank Ship (UK) Ltd v The Miller Steamship Company Ltd* [1967] AC 617 at page 642. He said: “It does not follow that, no matter what the circumstances may be, it is justifiable to neglect a risk of such a small magnitude. A reasonable man would only neglect such a risk if he had some valid reason for doing so, eg that it would involve considerable expense to eliminate the risk. He would weigh the risk against the difficulty of eliminating it”.

13 [1968] 1WLR 1776

14 See *British Railways Board v Herrington* [1972] AC 877 per Lord Reid at page 899 and *Watt v Herefordshire County Council* [1954] 1WLR 835 per Denning LJ at page 838.

15 Lord Parker CJ in *The Wagon Mound (No. 1)* [1961] 1ACR 388 at page 414.

involving physical injury to the employee as distinct from injury to his mental health. However as *Walker* illustrates, there is no logical reason why risk of psychiatric damage should be excluded from the scope of an employer's duty of care or from the co-extensive implied term in a contract of employment. That said there can be no doubt that the circumstances in which claims based on such damage are likely to arise will often give rise to extremely difficult evidential problems of foreseeability and causation. This is particularly so in the environment of the professions where the Claimant may be ambitious and dedicated, determined to succeed in his career in which he knows the work to be demanding, and may have a measure of discretion as to how and when and for how long he works, but where the character or volume of the work given to him eventually drives him to breaking point. Given that professional work is often demanding and stressful, at what point is the employer's duty to take protective steps engaged? What assumption is he entitled to make about the employee's resilience, mental toughness and stability of character given that people of clinically normal personality may have a widely differing ability to absorb stress attributable to their work?

Whilst in *Walker* the Court broke new ground in finding for a Claimant who had suffered psychiatric injury as a result of stress at work, the tools used by the Court to determine the issue of negligence were those honed over the years in dealing with cases of physical injury. What is clear however from *Walker* is that damages for psychiatric injury following stress at work are merely a development, or an extension of the law of negligence. Whilst there will be new evidential difficulties and problems of foreseeability and causation, there was no indication that a wholesale review of the common-law of employers' liability was to be considered. However the increase in stress at work, combined with growing awareness of the possibilities of successful litigation have led to an increasing willingness to litigate. Not surprisingly many of the cases involve public servants, and in particular teachers.

A number of these cases involving appeals against first instance decisions came before the Court of Appeal in early 2002. They provided the Appellate Court with an opportunity to reconsider both the case of *Walker* itself, and a review of the common-law of negligence as it pertained to stress related psychiatric damage suffered in the workplace.

Hatton v Sutherland & Others

In February 2002 the Court of Appeal (Brooke, Hale and Kaye LLJ) handed down Judgment in *Hatton v Sutherland*, *Barber v Somerset County Council*, *Jones v Sandwell Metropolitan Borough Council*, and *Bishop v Baker Refractories Ltd.*¹⁶ These four separate appeals, heard together, provided the Court with an opportunity to revisit the principles set out in *Walker* in an effort to clarify this difficult area of law. In each case the appellants were the employer Defendants who failed at first instance. The circumstances of each appeal are as follows.

Penelope Hatton was employed as a French teacher in a comprehensive school in Liverpool from 1980 until 1995. In January 1994 she was off work for a month following an attack in the street, and later that year her son was admitted to hospital for a considerable time. She remained away for the rest of the term with medical certificates identifying depression and debility. On her return to work in September 1994 she attributed her absence to her son's illness. Finally, in October 1995 she was signed off work with depression and debility and never returned.

¹⁶ [2002] EWCA Civ 76.

His Honour Judge Trigger sitting in Liverpool County Court accepted that one of the major precipitating factors contributing to the Claimant's stress was the increase in her duties and pressures at school. He found against the school on the basis that by September 1995 it was clear that the Claimant was suffering from a stress-induced illness. The Court of Appeal however accepted that although the Claimant had an increased workload, it was no greater than any other teacher in a similar school. Moreover the Claimant had never complained about this, rather relying on her son's illness as the cause of her absence from work. The court accepted that it was not reasonably foreseeable to the employer that the psychological harm experienced by the Claimant was attributable to her school-work. (Interestingly, had the Claimant been able to satisfy the test of foreseeability she would then have had to show that the school could have managed affairs in such a way as to have made a difference).

Leon Barber was an experienced head of maths at Bridgewater Community School in Somerset. Because of declining rolls, his responsibilities as a maths teacher fell, and in order to keep his former salary he took on additional publicity and marketing responsibilities resulting in an increased workload. With no previous history of psychiatric illness he first developed depressive symptoms in autumn 1995 but told no one at school about these. After periods of absence from work he eventually in July 1996 revealed to his superiors the detrimental effect his work situation was having on his health. Notwithstanding the deterioration of his condition he continued to work but in November 1996 lost control of a classroom and was advised to stop work immediately. His Honour Judge Roach sitting at Exeter County Court found for the Claimant, concluding that the illness was caused by stress at work. On appeal however the court refused to accept that the Defendant education authority was in breach of its duty of care to the Claimant. The three appeal judges took the view that although the Claimant had mentioned just before the summer holidays that he was suffering from ill health, he returned and made no such complaints. Had he approached the Deputy Head at the beginning of the autumn term and explained that things had not improved, the Court may have considered the matter differently.

Olwyn Jones was employed as an administrative assistant at a local authority training centre from August 1992. The evidence at first instance was that she was required to work grossly excessive hours and expected to perform variously the work of 2 – 3 people. Notwithstanding repeated complaints to her managers of excessive work, nothing was done. In mid 1994 she addressed her problems in a detailed document submitted to her employers but nothing further happened. By the end of 1994, in the absence of any response she invoked the grievance procedure. However before the hearing of her complaint took place she went off sick and never returned. At first instance his Honour Judge Nicholl sitting at Birmingham County Court found for the Claimant. The Court of Appeal upheld this decision albeit not "without hesitation". They accepted that damage to the employee's health was foreseeable and that obvious steps could have been taken to avoid the employer being in breach of duty to their employee. The Claimant's case was strengthened by the acknowledgement by senior management that there were steps which they could have taken, but which they failed to do.

The last of the four cases involved **Melvyn Bishop** a raw materials operative at a factory in West Yorkshire. He worked for his employers from 1979 until 1994 without difficulty. However following a re-organisation of workloads he found difficulties and complained unsuccessfully to his manager. Finally he attended his GP who provided the Claimant with sick notes. Shortly after he suffered a nervous breakdown. At first instance his Honour Judge Kent-Jones sitting at Leeds County Court found for the Claimant. In his view the history should have prompted the employers to investigate the situation immediately. Either he should have been given a job he could do or his employment terminated. Accordingly the Defendant was liable for the Claimant's breakdown. Not surprisingly perhaps the Court of Appeal overturned this decision. They found that the appellant had no notice that the Claimant was likely to suffer psychiatric illness if he continued in his job – especially as Mr Bishop had concealed from his employer the advice that his doctor had given to him to change jobs. It was he, Mr Bishop who chose to go back to work but there was little evidence to satisfy a court that a breakdown was reasonably foreseeable. In short there was nothing the employer could have done to enable Mr Bishop's employment to continue – especially against a background of the majority of employees welcoming the re-organised work shifts.

Having considered the legal principles to be adopted in considering claims for occupational stress, but before adjudicating on each case, the Court of Appeal took the opportunity of setting out a number of principles to be adopted when considering such cases. The 16 “practical propositions” which emerge from the Court's analysis of existing case law are:–

- (1) There are no special control mechanisms applying to claims for psychiatric (or physical) illness or injury arising from the stress of doing the work the employee is required to do. The ordinary principles of employer's liability apply.
- (2) The threshold question is whether this kind of harm suffered by this particular employee was reasonably foreseeable; this has two components (a) an injury to health (as distinct from occupational stress) which (b) is attributable to stress at work (as distinct from other factors).
- (3) Foreseeability depends upon what the employer knows (or ought reasonably to know) about the individual employee. Because of the nature of mental disorder, it is harder to foresee than physical injury, but may be easier to foresee in a known individual than in the population at large. An employer is usually entitled to assume that the employee can withstand the normal pressures of the job unless he knows of some particular problem or vulnerability.
- (4) The test is the same whatever the employment; there are no occupations which should be regarded as intrinsically dangerous to mental health.
- (5) Factors likely to be relevant in answering the threshold question include:–
 - (a) The nature and extent of the work done by the employee. Is the workload much more than is normal for the particular job? Is the work particularly intellectually or emotionally demanding for this employee? Are demands being made of this employee unreasonable when compared with the demands made of others in the same or comparable jobs? Or are there signs that other doing this job are suffering from harmful levels of stress? Is there an abnormal level of sickness or absenteeism in the same job or the same department?
 - (b) Signs from the employee of impending harm to health. Has he a particular problem or vulnerability? Has he already suffered from illness attributable to stress at work? Have there

recently been frequent or prolonged absences which are uncharacteristic of him? Is there reason to think that these are attributable to stress at work, for example because of complaints or warnings from him or others?

- (6) The employer is generally entitled to take what he is told by his employee at face value, unless he has good reason to think to the contrary. He does not generally have to make searching enquiries of the employee or seek permission to make further enquiries of his medical advisers.
- (7) To trigger a duty to take steps, the indications of impending harm to health arising from stress at work must be plain enough for any reasonable employer to realise that he should do something about it.
- (8) The employer is only in breach of duty if he has failed to take the steps which are reasonable in the circumstances, bearing in mind the magnitude of the risk of harm occurring, the gravity of the harm which may occur, the costs and practicability of preventing it, and the justifications for running the risk.
- (9) The size and scope of the employer's operations, its resources and the demands it faces are relevant in deciding what is reasonable; these include the interests of other employees and the need to treat them fairly, for example, in any redistribution of duties.
- (10) An employer can only reasonably be expected to take steps which are likely to do some good; the court is likely to need expert evidence on this.
- (11) An employer who offers a confidential advice service, with referral to appropriate counselling or treatment services, is unlikely to be found in breach of duty.
- (12) If the only reasonable and effective step would have been to dismiss or demote the employee, the employer will not be in breach of duty in allowing a willing employee to continue in the job.
- (13) In all cases, therefore, it is necessary to identify the steps which the employer both could and should have taken before finding him in breach of his duty of care.
- (14) The Claimant must show that the breach of duty has caused or materially contributed to the harm suffered. It is not enough to show that occupational stress has caused the harm.
- (15) Where the harm suffered has more than one cause, the employer should only pay for that proportion of the harm suffered which is attributable to his wrongdoing, unless the harm is truly indivisible. It is for the Defendant to raise the question of apportionment.
- (16) The assessment of damages will take account of any pre-existing disorder or vulnerability and of the chance that the Claimant would have succumbed to a stress related disorder in any event.

Whilst a welcome clarification of the law, many practitioners¹⁷ have taken the view that the judgment is unlikely to have a significant impact upon the number of occupational stress claims reaching the civil courts in future. Whilst the publicity surrounding these cases has dwelt on the failure of (three of) these appeals it would be wrong to suggest that *Hatton* had changed the law. The Court of Appeal has done a valuable job in clarifying the principles to be adopted when assessing such a case. However these principles are merely developments of the existing common law and include no radical departure. Whilst some Claimants (and their lawyers) may be deterred from bringing claims, the duty of care of an employer has not been altered. Clearly from this judgment

17 Judging from the many discussions the writer has had with other specialist personal injury lawyers.

a duty is placed on the employee to convey stress and the consequences of such stress to his employer. Similarly an employer is entitled to take what is told to him by his employee, at face value without an inquisition. However the Court of Appeal has very firmly closed the door on the argument that certain forms of employment are so stressful that they could endanger the mental health of those involved in those particular forms of employment (an argument that has been put forward by such groups as teachers, social workers and prison officers). It is clear from the judgment that where an employee is suffering from work-related stress he or she must inform his employer. Of the three unsuccessful respondents to the appeals, Mrs Hatton and Mr Barber failed to inform their employers that they were being put under pressure as a consequence of their work. The employers argued that they were therefore not given notice that problems were arising as a consequence of work and were not in breach of duty for having failed to take any steps to deal with this. This of course is precisely the position in *Walker* and why Mr Walker failed in respect of his first breakdown. If there is no history of psychiatric illness arising as a direct consequence of the employment, an employee is now less likely to succeed.

The Court of Appeal has in effect, upheld the decision of Colman J in *Walker* but in doing so has indicated in very clear terms that there is to be no dilution of the *Walker* test. Whilst the 16 propositions may well serve to reduce the number of claims that can be successfully pursued, *Hatton* has certainly not sounded the death knell for individuals suffering from psychological injury as a result of work-related stress.